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Gordon R. Lindeen III BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP Seventh Floor 12400 Wilshire Boulevard Los Angeles, CA 90025-1026			EXAMINER	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JEAN M. GOLDSCHMIDT IKI,
ANTHONY A. SHAH-NAZAROFF, CHRISTOPHER D. WILLIAMS,
GREGORY D. BUSCHECK, and KENNETH ALAN MOORE

Appeal 2009-014358
Application 09/779,779
Technology Center 2400

Before MAHSHID D. SAADAT, DENISE M. POTIER, and
JASON V. MORGAN, *Administrative Patent Judges*.

MORGAN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Introduction

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's non-final rejection of claims 1 – 5, 7 – 19, and 21 – 26.¹ Claims 6 and 20 are canceled. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Invention

The invention pertains to the field of entertainment system and relates to selecting from multiple versions of a television program for display in an entertainment system (Spec. p. 2, ll. 7 – 9).

Exemplary Claim

1. A method comprising:

- receiving user preferences for entertainment program characteristics from a user at an electronic device;
- storing the received user preferences at the electronic device;
- receiving an electronic programming guide at the electronic device;
- receiving a selection of an entertainment program within the electronic programming guide from a user at the electronic device;
- identifying *multiple available versions of the same selected entertainment program* in the electronic programming guide;
- determining whether multiple versions are available;

¹ The Examiner explains that claims 23 and 24 were inadvertently omitted from the rejection's heading and claim 8 has been previously addressed during prosecution (Ans. 2 – 3). Appellants do not challenge the Examiner's summary of the rejections in the Reply Brief (*see* Reply Br. 1 – 6).

identifying, for each of the multiple versions, if multiple versions are available, a plurality of characteristics of each respective version of the same selected entertainment program; determining whether automatic program selection has been configured; displaying the identified versions if automatic program selection has not been configured; and *selecting, by the electronic device, if automatic program selection has been configured, one of the multiple versions for display* by comparing the identified characteristics to the received user preferences for entertainment program characteristics and selecting the program that has the most characteristics conforming to the user preferences.

(Emphases added).

Evidence and Rejection

The Examiner rejects claims 1 – 5, 7 – 19, and 21 – 26 as being unpatentable under 35 U.S.C. § 103(a) as being obvious over Schein (US 2006/0168620 A1, Rosser (US 6,446,261 B1) and Ismail (US 6,614,987 B1) (Ans. 3 – 9).

ISSUE

The Examiner relies on Schein as teaching, among other things, an electronic device that receives a selection of an entertainment program, identifies multiple available versions of the same selected entertainment program, and displays the identified versions (Ans. 3 – 4, *citing, e.g., Schein, fig. 3; ¶¶ [0034] – [0035]*). The Examiner relies on Rosser as teaching receiving and storing user preferences and selecting for display one of multiple versions of a program (Ans. 5, *citing, e.g., Rosser, col. 14, ll. 18 – 23*). The Examiner relies on Ismail as teaching automatic selection, by the

electronic device, of a program when the program characteristics match user preferences (Ans. 5 – 6, *citing, e.g.*, Ismail, col. 9, l. 61 – col. 10, l. 9).

Appellants contend that the Examiner erred because “Schein does not show identifying multiple available versions, nor comparing any identified characteristics that could be used to select one over the other” (App. Br. 11) and in Rosser “[i]dentifying, comparing and selecting are done in advance *by the producers or broadcasters*” (App. Br. 12) (emphasis added).

Thus, we are presented with the following issue:

Did the Examiner err in finding that the Schein, Rosser, and Ismail collectively would have taught or suggested the recitations of claim 1?

ANALYSIS

Claim 1 recites “identifying *multiple available versions of the same selected entertainment program*” (emphasis added) and “selecting, *by the electronic device*, if automatic program selection has been configured, *one of the multiple versions for display* by comparing the identified characteristics to the received user preferences for entertainment program characteristics and selecting the program that has the most characteristics conforming to the user preferences” (emphasized added). The Specification discloses that “[a] ‘version’ of a program refers to a particular transmission of the program, having particular characteristics, provided from a source(s). Different versions of a program *can* have different characteristics, including different video quality, audio quality, etc.” (Spec. 7, ll. 6 – 9) (emphasis added). The Specification provides an open-ended listing of example program characteristics including, but not limited to: program duration, the availability of alternate audio, type of audio support for the program, availability of enhanced programming, program rating (e.g., TVG, TV14,

TVMA, etc.), language of subtitles, language of dubbing, language spoken in the program, screen format, whether the program is a director's cut version, availability of descriptive video service, availability of close captioning, and color code (Spec. p. 17, l. 18 – p. 18, l. 8). Based on this broad definition and many examples, we conclude that “multiple available versions of the same selected entertainment program” includes two or more available transmissions of the program having minor differences between the transmissions (e.g., differences in transmission or air time or broadcasting source).

Appellants contend that “Schein does not show identifying multiple available versions” (App. Br. 11) and that in Rosser “any one particular household only receives one version” (Reply Br. 4; *see also* App. Br. 12). However, Appellants cannot show error in the Examiner’s rejection, which is based on the collective teachings and suggestions of Schein, Rosser, and Ismail, by attacking the references individually. *See In re Keller*, 642 F.2d 413, 426 (CCPA 1981).

Here, the Examiner properly finds that Schein and Rosser each teach or suggest “multiple available versions of the same selected entertainment program” (Ans. 4 – 5). We agree with the Examiner because Schein teaches displaying when alternative transmissions of a program (e.g., GONE WITH THE WIND) are available (Ans. 4; *see also* Schein, fig. 3) and Rosser teaches that producers or broadcasters may present (i.e., transmit) different versions of programs to different households to omit or replace offensive content (Ans. 5; *see also* Rosser col. 14, ll. 15 – 23). Furthermore, rather than Schein or Rosser, the Examiner relies on Ismail to teach or suggest selecting a program by an electronic device (e.g., a receiver) (Ans. 5, *citing*

Ismail, col. 9, l. 61 – col. 10, l. 9). We agree with the Examiner because Ismail’s selection is controlled by a recording manager and a preference agent that are part of a set-top box or personal computer (Ismail, col. 8, ll. 59 – 65; figs. 1 and 9(a)). Therefore, we agree with the Examiner that Schein, Rosser, and Ismail, when combined, collectively teach or suggest “identifying multiple available versions of the same selected entertainment program” and “selecting, by the electronic device, if automatic program selection has been configured, one of the multiple versions for display.”

Appellants further contend that Schein does not teach “comparing any identified characteristics that could be used to select one [available version of a program] over the other” (App. Br. 11). However, the Examiner properly finds that Ismail (not Schein) teaches or suggests such comparisons (Ans. 5 – 6, *citing* Ismail, col. 9, l. 61 – col. 10, l. 9). We agree with the Examiner because Ismail teaches that a recording manager causes recordation of a program in accordance with ratings for a set of programs received from a preference agent (Ismail, col. 9, l. 61 – col. 10, l. 9). These ratings are determined from category-value pairs which are indicative of viewing preferences of the user (Ans. 5 – 6; *see also* Ismail, col. 3, ll. 66 – 67 and col. 8, ll. 21 – 40). Therefore, we agree with the Examiner that Ismail’s rating of such programs teaches or suggests, when combined with Schein and Rosser, the recitation of “comparing the identified characteristics to the received user preference.”

All of the disputed recitations have been taught or suggested by the collective teachings and suggestions of Rosser, Schein, and Ismail, and Appellants have not persuasively shown error in the Examiner’s reliance on their collective teachings and suggestions. Accordingly, we sustain the

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Examiner's rejection of claim 1 under 35 U.S.C. § 103(a) as being obvious over Schein, Rosser, and Ismail.

Appellants provide no additional arguments with respect to independent claims 10 and 16, or with respect to dependent claims 2 – 5, 7 – 9, 11 – 15, 17 – 19, and 21 – 26 (*see* App. Br. 9 – 16). Accordingly, for the reasons discussed above, we find that the Examiner did not err in rejecting these claims under 35 U.S.C. § 103(a).

DECISION

We affirm the Examiner's decision rejecting claims 1 – 5, 7 – 19, and 21 – 26.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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